



Good Practice Guide



International
Labour
Organization

Factory Improvement Programme

SOCIAL DIALOGUE AND WORKPLACE COOPERATION

AN OVERVIEW

This document is based on materials developed for FIP by Mr. Robert Heron, Senior Labour Administration Specialist – ILO Bangkok.

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Introduction

Globalization has brought significant benefits to the developing countries, but in many cases has also seen an increase in conflict and disputes between workers and employers as well as challenges to workers' rights.

Such conflict is inevitable where the country's industrial relations system has not managed to keep pace with the overall transformation process. Although industrial conflict is inevitable in a market economy, such conflict can be managed -- disputes can be resolved quickly and fairly if the appropriate institutional arrangements are in place. More importantly, conflict and disputes can be **prevented** from arising if workers and employers within the enterprise are willing to interact, to discuss, to listen and cooperate. In short, social dialogue and workplace cooperation can prevent labour disputes.

Dialogue and cooperation bring significant advantages to both workers and employers.

- Minor disagreements and misunderstandings can be prevented from escalating into major disputes.
- Enterprises can become more efficient, allowing them to compete more readily in national and international product markets.
- Labour productivity can increase thereby contributing to enterprise competitiveness and providing a foundation for increased benefits for workers.
- Trust and confidence is developed from which more mature forms of interaction can emerge.

Although social dialogue and workplace cooperation are not highly developed in many enterprises, there is increasing interest from both employers and workers to make changes in the workplace that will lead to improved labour-management relations.

Managers and workers with limited experience in dialogue and workplace cooperation, but with a genuine interest in its introduction, need assistance in 'getting started'. This requires that they have a basic knowledge of the nature and purpose of dialogue and workplace cooperation, and an issue on which their initial efforts can focus. The introduction and implementation of improved safety and health schemes, new worker welfare arrangements, productivity enhancement schemes, the setting of work targets, overtime arrangements, the introduction of an enterprise-level grievance procedure are just some of the possible entry points for improved dialogue and cooperation at the enterprise level.

Managers, workers and workers' representatives need to develop their capacity to engage in all forms of social dialogue and workplace cooperation and that is the main purpose of these materials – to guide interested parties through the various forms and levels of social dialogue and workplace cooperation in a process of 'incremental capacity building', not with the intention of

imposing prescriptions but rather to encourage exploration in a field that often remains underdeveloped.

Accordingly, these materials provide an overview of social dialogue and workplace cooperation in the general context of industrial relations, examines some of its most common forms, and provides a framework for 'getting started' by presenting a series of steps managers and workers need to follow if they are to make progress.

Dialogue and cooperation can transform two-dimensional conflict and confrontation into a two-dimensional exploration – an exploration of new approaches to dispute prevention, new approaches to increased productivity and profitability, and new approaches to improving enterprise competitiveness. These materials represent a starting point in that exploration process.

CHAPTER 1

INDUSTRIAL RELATIONS, SOCIAL DIALOGUE AND WORKPLACE COOPERATION

Introduction

Dialogue and cooperation in the workplace cannot be considered as something separate and distinct from industrial relations. Clearly, the interactions between workers and managers that take place in enterprises are an integral part of the industrial relations system. Accordingly, knowledge of the nature of industrial relations provides an essential foundation for an understanding of social dialogue and workplace cooperation.

Industrial Relations

Industrial relations is concerned with interactions between employees and employers and their respective organizations, as influenced by government, arising at work or out of the work situation. These interactions are based on dialogue between employees and employers and can be

- individual or collective
- formal or informal
- cooperative or confrontational
- harmonious or disruptive.

These interactions relate to **work** and **workplaces**. Thus it is necessary to define the term 'workplace'. A workplace in the broad sense is any place where work occurs, but there will be some situations in which work takes place but without any interaction, as for example with a self-employed person. A workplace refers to all arrangements where workers are employed under a contract of employment 'in all economic sectors and under all forms of ownership'.

This means that workplaces can include a wide variety of enterprises, from factories, to farms, plantations, banks, mines, fishing boats, hotels, restaurants, and shops.

Interactions

The interactions in industrial relations between workers, employers and government, can take place at different levels – national level, industry or sector level, and enterprise level. For example, discussions between a national union and the Ministry of Labour concerning amendments to the labour law usually involve interactions at national level. Negotiating a collective agreement for workers in a number of related enterprises involves interactions between

employers and trade unions at industry level. A dispute between a worker and his or her employer over wages involves interactions at enterprise level.

For current purposes, our interest is on the interactions that take place at enterprise level, within individual workplaces. If the interactions between workers and employers, and their respective organizations, at enterprise level can be improved, conflict will reduce and cooperation will increase.

The Parties

The interactions that take place in industrial relations require a consideration of the key players involved. The three main parties are workers and their representatives, employers and their organizations, and government at various levels.

Each individual worker interacts with his or her employer, based on a contract of employment that creates a legally binding agreement between the worker and the employer, and sets out the rights and obligations of each party.

Workers collectively may ***interact*** with their individual employer through a trade union or other organization representing the interest of workers, resulting in the creation of a collective agreement.

Workers collectively may ***interact*** through their trade union with a ***group*** of employers in a particular industry.

The Government interacts with all parties – individual workers, trade unions, employers and employers' organizations – by regulating their behavior in various ways, with particular emphasis on establishing minimum standards to which all parties are required to comply.

Interactions and Power

The nature of the interactions between the workers, employers and government will be influenced by the power they possess.

The ***power*** of the individual workers is limited because he/she generally is unable to influence the policies and actions of his/her employer.

The power of the individual worker can be increased by joining a trade union or workers' organization, with workers' interactions with employers now taking place as a group rather than as individuals. The power of a union depends to a large extent on the number of its members. A union with few members, few subscriptions, and limited finance has limited power, whereas a union with all workers in the enterprise as subscribing members can have considerable power.

The ***power*** of the employer is related to the ability to take decisions concerning its current activities and future growth of the enterprise – decisions that may adversely affect workers – without consultation or interaction.

Interactions and the Environment

The nature of the interactions between the parties in industrial relations is strongly influenced by the environment in which the parties operate. Of particular importance are the **political and legal environments**.

Is the political environment one that supports consultation, openness and transparency?

Are individual rights supported and respected?

Does the legal environment support freedom of association and collective bargaining?

Does the legal environment provide for high levels of government intervention in employer-employee relations?

Or, are government interventions minimal, with a view to encouraging employers and workers to solve their problems through consultation, negotiation and bargaining?

The interactions between the parties will also be influenced by the **economic and social environments** in which they operate.

If the economy is stagnant or contracting, and unemployment is increasing, workers and their organizations will find it more difficult to achieve gains and additional benefits. Other factors including the level of inflation, international trade agreements, productivity levels, taxation and government charges, and technological changes, can all have an impact on employer-employee relations.

The **social environment** is important because it can influence the way in which the parties resolve conflict.

Do social and cultural standards and values emphasize conflict and winning, or cooperation and compromise?

Are traditional values being influenced by imported behavior?

The Process of Interaction

The **process** of interaction relates to communication in its various forms involving information sharing, consultation, negotiation, and bargaining. In some cases, however, there is no real interaction -- communication is essentially one-way, with one party telling and the other expected to respond to the directions given.

Examples.

An employer changes the shift roster without any discussion with workers.

An employer tells workers they must work overtime if they want to keep their jobs.

The government changes the level of minimum wages without any consultation with workers or employers.

The government unilaterally changes the laws and regulations concerning maternity leave.

A trade union tells an employer that workers refuse to work until the workplace is made safe.

In other cases, interaction between the parties is driven by a genuine interest to solve problems through two-way dialogue involving consultation leading to advice, or negotiation leading to agreement. In such cases, interaction may involve two parties (bipartite) or three parties (tripartite).

Bipartite interaction may be between workers and employers, government and workers, or government and employers.

Examples

Managers and workers form a Work Safety and Health Committee to discuss ways of improving the working environment in the enterprise.

A trade union and an employer negotiate a collective agreement.

Employers meet with government officials to urge government to reduce the inflation rate because the existing rate is creating demands from workers for an increase in wages to compensate for the higher cost of living.

Workers and their representatives meet with government officials to lobby for an increase in the level of minimum wages.

Tripartite interaction involves government, worker representatives, and employer representatives coming together either under ad hoc arrangements to discuss a particular issue, or more formally in accordance with requirements established by law (e.g. if the law provides for a National Labour Advisory Council or similar body) to discuss a range of issues.

Tripartite interactions usually take the form of discussions leading to **advice** to government to enable it to make better decisions as a result of receiving the viewpoints of workers and employers. Such interactions do not usually result in legally binding decisions.

The Quality of Interactions

The **quality** of interactions refers to the extent to which the interactions are sincere and in good faith. For example, some interactions are cosmetic and superficial, with the parties not really committed to sharing information and listening to and learning from each other.

Such cosmetic interactions lack commitment and are unlikely to produce positive results. For example, a government may decide to discuss a revised labour law with employers and workers, after the law is in its final form. In this case the consultations are meaningless because the government has reached a final position before consultations take place.

The interactions between workers and employers in a collective bargaining situation can also lack sincerity as, for example, where the workers have made up their mind before negotiations commence to go on strike as a show of power. Similarly, management may agree to negotiate with workers but adopt an unreasonable and fixed position, with no intention of making even the smallest concession.

Alternatively, the interactions may be driven by a desire to find a better result, with all parties placing a high value on the interaction process because they have confidence in its outcomes. For example, government may initiate consultations with workers and employers at the very start of the law revision process, because it believes the final outcome will be better as a result.

Workers and employers may enter a bargaining situation willing to make compromises, and prepared to move from their initial positions to enable a mutually acceptable solution to be generated. This is an example of interaction based on mutual respect and trust, and willingness to compromise.

The Outcome of Interactions

The interactions between the industrial relations actors or parties leads to decisions being made, sometimes by one party after a process of consultation, and sometimes by two parties together as a result of negotiation leading to agreement. The result of the interaction is the creation of rules, thereby supporting the view that industrial relations is a 'rule-making process.'

There are two types of rules, namely

- **substantive** rules,
- **procedural** rules.

Substantive rules are those with a clearly measurable content. Examples of substantive rules include the following.

- Wages will be increased by 5% commencing next month.
- Workers will receive two additional days annual leave.
- Overtime rates will increase by 10%.

- 50 workers will be made redundant.
- The probation period will be 3 months.

Procedural rules concentrate on how things are to be done, rather than the actual changes in working conditions. Examples of procedural rules include the following.

- There will be a new grievance procedure in the enterprise.
- All disputes will be referred to a conciliator in the first instance.

The rules, however, may draw different reactions from the parties depending, in part, on the process by which the rules were created.

If the rules are **accepted** by the parties, there will be harmony and cooperation. If the rules are not accepted by all parties, there will be disagreements, conflict and, possibly, labour disputes. If there are disputes they will have to be resolved by

- negotiation and bargaining,
- conciliation,
- mediation,
- arbitration,
- adjudication.

If the outcome of the system is not acceptable, what needs to be done?

If the outcome is not acceptable, it is necessary to change the outputs or the rules. In order to change the rules, we must

- change the inputs, meaning a change in the parties (e.g. their power, their knowledge) or a change in the environment in which they operate,
- change the process, meaning change the way in which the parties actually interact with each other (e.g. more consultation and less one-way communication)
- change both the inputs and the process.

What does all this mean for enterprise-level industrial relations?

It means that we have to get the rules right. If the rules are not accepted by workers and their employers the final outcome will be conflict, disputes and disruption.

How do we get the rules right?

We must develop and strengthen the capacity of worker representatives and managers, by building their knowledge and skills, and encouraging attitude change

directed towards more dialogue increased cooperation. This involves building both abilities and willingness.

We must strengthen the **process of interaction**. This involves

- more sharing of information,
- new structures to facilitate consultations and discussions,
- encouraging consultation and joint-problem solving,
- encouraging negotiation and collective bargaining.

Summary

Industrial relations is concerned **with interactions** between workers, employers (and their organizations) and government, arising at and out of the workplace.

These interactions are complex, but manageable. These interactions are likely to work best when the parties

- are well informed,
- are committed to harmonious relations,
- are willing and able to discuss their differences,
- are willing and able to compromise,
- have the necessary abilities and skills to interact in a positive manner.

Training for all parties at enterprise level will make a difference, particularly if supported by systems and procedures to ensure that new knowledge and skills acquired by a few are multiplied throughout the enterprise.

Industrial relations in a market economy accepts and recognizes that workers and management have a separation **of interests**. This is seen as legitimate. But this separation of **interests** does not have to mean constant conflict. Both parties can work together to resolve their differences and reach a common understanding. The conflicting interest creates the need to discuss and negotiate – the common interest creates the means to reach compromise and agreement.

Dialogue is essential for an effective industrial relations system. Without it industrial relations will remain immature, with the lack of trust and information sharing resulting in conflict and disputes prevailing over cooperation and harmony.

CHAPTER 2

SOCIAL DIALOGUE AND WORKPLACE COOPERATION : NATURE AND PURPOSE

Social Dialogue: What does it mean?

Social dialogue refers to interactions between employers and workers, and their respective organizations, involving the sharing of information, exchanging ideas, solving problems, resolving conflict, and promoting common interests of the parties engaged in dialogue.

Social dialogue can be

- tripartite, involving government agencies, workers/unions, and employers,
- bipartite, involving workers/unions and employers,
- multi-party, involving government agencies, workers/unions, employers, and representatives of civil society.

Social dialogue requires **communication, cooperation, and trust**. **Trust** is the very essence of social dialogue. Trust is a belief in the honesty and reliability of a person or thing, and without it dialogue will be

- superficial
- suspicious
- selfish.

Without trust conflicting interests will always dominate over common interests, thereby providing no real foundation for effective workplace cooperation.

Building Trust

Building trust starts with sharing information, having an agreed set of rights and obligations, and then actually doing the things that have been agreed.

Example

Managers agree to share productivity gains between workers and managers, but then fail to share the gains that actually occur. Mistrust will result, and workers will no longer believe what managers promise.

Trust must be mutual. If we do not trust each other, we do not talk to each other. If we don't talk to each other there is even less trust, resulting in the creation of a 'low trust trap'.

Trust is closely related to fairness. If people feel they are being treated fairly and equally, without discrimination trust can grow and develop. If people feel they are being treated unfairly, this issue will have to be addressed before trust can develop.

Workplace cooperation: What does it mean?

Workplace cooperation is a general term that refers to the arrangements for establishing and improving relations between management and workers within the enterprise.

It involves interaction between workers and managers at all levels within an enterprise.

It is necessary to clarify the meaning of the terms '*interaction*', '*workers*', '*managers*', '*levels*', and '*within the enterprise*'.

Interaction

Interaction means workers and managers coming together to

- talk
- listen
- discuss
- compromise
- make decisions

The aim of these interactions is to solve problems of concern to workers, thereby promoting the interests of both workers and management.

Workers

Who is a worker? A worker is an employee who has no responsibility for the work of others within the enterprise.

A worker is responsible for his or her own work, and does not supervise or direct the work of other people. A supervisor, therefore, is not a worker. A supervisor is an employee, but part of management.

It is possible, however, that supervisors, group leaders, forepersons and other first line managers, **as employees**, may wish to engage in various forms of workplace cooperation with senior managers. This is to be encouraged, but is better dealt with by different arrangements from those applying to workers.

Managers

Who is a manager?

A manager is an employee who not only has responsibility for his or her own work, but also for the work of others.

In this context managers include

- fore-persons,
- supervisors,
- production managers,
- human resource managers,
- finance managers,
- office managers,
- department managers,
- general managers.

Managers and workers are all employees. All workers are employees, but not all employees are workers.

At all levels

Interactions can take place in all parts of the enterprise, and at different levels.

Interactions can take place between

- workers and line supervisors on the shop floor,
- workers and department and section managers in structured meetings and training sessions,
- workers and senior managers in meetings through bargaining and negotiations.

Interactions can take place between different types of workers and managers. Whether workers are on the shop floor, in the finance office, in the maintenance section, in the sales department, or the transport section, they are all workers and can interact with managers.

Within the enterprise

We are concerned with interactions that take place within the enterprise. Interactions can take place on a wide variety of issues, but the actual interactions involve workers and managers (and sometimes their representatives) in the enterprise itself, without any involvement of government.

Why should we encourage workplace cooperation? *Workplace cooperation:*

- prevents disputes by resolving complaints and preventing them from escalating into larger disputes,
- resolves problems quickly by addressing complaints when they arise,
- can improve working conditions and the working environment,
- can increase labour productivity and improve the competitiveness of the enterprise,
- builds trust and confidence between workers and managers,
- improves decision making at all levels,
- promotes common interests,
- increases motivation through dialogue, participation and involvement.

Workplace cooperation is not an end in itself. It is a means to improve enterprise performance in all dimensions, resulting in a more motivated and productive workforce and a more competitive and profitable enterprise.

Workplace cooperation: The main features

- ***It is normally a voluntary process***, although some forms of interaction may be required by law as, for example, where the law makes mandatory the establishment and operation of works councils, joint consultative bodies, or other worker-manager committees. Even if the law requires the formation of such bodies, if workplace cooperation is to operate successfully, both parties must want to do it rather than be compelled to interact with each other.
- ***It is a bi-partite process***. It involves interactions between managers and workers. There is no government involvement.
- ***It is relatively informal***. The framework for workplace cooperation may be established by law (e.g. works councils, joint consultative committees, safety and health committees), but the actual procedures within this framework are usually informal.
- ***Union involvement*** is possible and preferable, where unions exist. But it is not essential – workplace cooperation can still take place without the existence of trade unions.
- ***It is flexible***. The agenda for workplace cooperation is controlled by the parties themselves. They can interact on whatever they choose, when they wish.

Standard features of all successful workplace cooperation arrangements are the willingness of the parties to share information and the ability to communicate effectively.

CHAPTER 3

WORKPLACE COOPERATION: MAIN FORMS

Workplace cooperation has a variety of forms, as follows.

- Information sharing – one way communication
- Information sharing – two way communication
- Consultation
- Joint decision making
- Collective bargaining

Information sharing: One-way communication

This is the most basic form of workplace cooperation. There is no dialogue and interaction between workers and managers is passive rather than active, because one party gives information, the other receives it.

This form of workplace cooperation usually involves management giving information but without any opportunity for discussion by workers as, for example, posting a copy of the Internal Regulations on a notice board, or providing information on minimum wage rates. But this is a potentially an important take-off point for further dialogue and cooperation.

Information may be given by

- placing notices on notice boards,
- posters,
- circulars,
- newsletters,
- public address announcements,
- telling workers individually and in groups.

In some cases, information is provided by workers to managers.

This may be by an individual worker or by a group of workers as, for example, when a worker places a message in a suggestion box, tells a supervisor that there is no drinking water, or reports a malfunction of a machine.

With one-way communication information can be conveyed quickly but

- there is no opportunity for immediate feedback
- messages can be distorted because there are no opportunities for clarification.

For example, a sign is posted in an enterprise that says **No Smoking in this Area**. What does this mean? Is the meaning clear to people reading this message? What is 'this area?' Does it mean that people can smoke outside this area?

- For example, a sign for an exit to a building may show an arrow pointing to the exit, and a person running. Does this convey the intended meaning? Does it mean that people must run to the exit, or can they walk?

Communication means more than the transfer of words and images. It is concerned with the **transfer of meanings** between a sender and a receiver. One-way communication transfers the words and images intended by the sender, but often fail to convey the meanings of those words and, thus, misunderstandings occur. In many cases, misunderstandings over simple things can lead to disagreements and disputes. It is necessary, therefore, to ensure that one-way communication systems are not the sole means of communication in the enterprise – two-way communication is essential to ensure that intended meanings are clear and understood.

Many things can happen that prevent the receiver from receiving the message in the way intended by the sender. This is known as 'message interference' or 'noise' or 'static.'

Sometimes the interference is caused by the **sender**. For example, if the message is being sent by a manager to workers, the message may not be received in the way intended for the following reasons.

The manager uses technical words that workers do not know (e.g. unfair dismissal, labour productivity, global competitiveness).

The manager speaks too quickly.

The manager uses an interpreter who may not fully understand what the manager is saying, and thus gives a wrong interpretation.

The manager speaks or writes things that are offensive to workers.

In some cases the interference is caused by workers, as the receivers of messages.

Workers may not be able to read the message, or may be able to read it but fail to understand the words.

Some workers may have a hearing problem.

Workers may be thinking about other things at the time the message is received and fail to concentrate.

Workers may dislike or mistrust their managers and thus deliberately not concentrate on the message. This can happen, for example, when a worker is in conflict with management. If workers have a hostile attitude towards their managers, they may not listen or not bother to read what is written.

One-way communication is not necessarily bad. It has the advantage of being quick and can reach large numbers of people. Provided the message is clear, there is a reasonable chance it will be understood without the need for feedback.

Information sharing: two-way communication

In two-way communication, information is provided by managers but workers are given opportunities to discuss, ask questions, and seek clarifications.

A worker receives his/her pay slip but does not understand how the total amount has been calculated and asks the supervisor for clarification. The supervisor explains the calculations to the worker and the problem is resolved.

Information sharing by two-way communication takes place through

- informal conversations,
- structured meetings,
- workshops and training sessions,
- discussion groups.

Two-way communication does not necessarily mean that communication is always more effective. There is still scope for messages to be misunderstood.

When talking to a worker a supervisor may not be understood because of the use of technical language that is too difficult for the worker to understand. Even though the worker may have an opportunity to seek clarification, the message will be misunderstood if the supervisor continues to use technical words that are too difficult for the worker.

Managers sometimes rely on an interpreter to explain things to workers. Even if the worker can ask questions to seek clarification, the communication may not convey the intended meaning if the interpreter makes mistakes or, indeed, deliberately conveys an incorrect message.

Two-way communication provides a better chance for messages to be understood in the way intended by the sender. It is also time consuming. The communication process is longer but likely to be more effective.

Workplace cooperation involves both one-way and two-way communication, but with the emphasis on **interaction through dialogue**. Workplace cooperation involves a lot of time spent on talking and listening, listening and talking, asking questions, answering questions, asking more questions, and responding to answers. Sometimes communication will be slow. Be patient. It is very important that managers and workers convey the correct message and are confident that it has been received in the way in which it was intended.

Improving Communication in the Workplace

Body language

Managers and workers communicate not only with spoken and written words, and pictures. They also use body language – their posture, hand gestures and facial expressions are all part of face-to-face communications. As both the senders and receiver of messages, managers and workers need to be aware of their own body language, and the body language of others.

The body language of the sender of messages will tell the receivers whether the sender is confident, cooperative, and trustworthy or whether he or she is uncertain, confrontational, or dishonest. Eye contact is particularly important. Our eyes, our face and our hands tell other people a lot about us.

When sending messages it is important that the sender, whether a manager or a worker, observe the body language of the receivers. This will tell the sender whether the receivers are interested, attentive, hostile, uncomfortable, or possibly confused.

Listening

Many managers and workers are good at talking but not good at listening. They concentrate on what they want to say next, rather than what others are saying now.

Effective workplace cooperation depends on managers and workers being good listeners.

They can become better listeners if they **concentrate** on what is being said. It is necessary to concentrate not only on the words themselves, but also on the meanings; not only on **what** is being said but also **how** it is said.

Sending messages

- Managers and workers should keep their messages simple and clear.
- They should select the most suitable medium for their messages – select the medium best suited to the receiver.
- They should keep the messages as brief as possible.
- Managers and workers should **think** before they write and speak.
- They should encourage feedback on their messages.
- They should be sure of the objective of their messages.
- They should be aware that the **tone** of their verbal messages is very important.
- Managers, in particular, should not make assumptions about the importance of communication. Managers should avoid the following.

‘These workers do not need to know what I know!’

‘I don’t need to tell these workers the full story.’

‘These workers never tell the truth.’

‘I am sure these workers are trying to deceive me.’

Managers as senders of many workplace cooperation messages must make every effort to ensure their messages are understood and that interference is minimized. It is not acceptable to say ‘Those stupid workers did not understand what I was saying.’ The sender needs to adjust, not the receiver. Managers need to change the actual words, speak more slowly and clearly, use posters and pictures, and ask questions to see if they are being understood.

Consultation

Consultation is a process where information is shared and discussed, but with one party retaining the right to make a decision based on the discussion and advice provided. In most cases it is management who makes the final decision.

Workers in the ironing section of a garment enterprise may be asked by managers for advice on how the temperature might be reduced in this section. The workers give their comments, but the final decision on what will be done rests with management.

**Consultation is not the same as joint decision-making.
Consultation is a process of interaction leading to advice, not agreement.**

Consultation can be

- direct, in which case discussions take place between the persons actually involved in the issue or problem under discussion,
- indirect, in which discussions take place through representative bodies and committees.

Consultation can be formalized through the establishment of joint consultative committees and similar bodies that follow set agendas and keep minutes of the discussions. Although the process is more formal, the outcome is the same – workers provide advice, but management makes the final decision.

Case Study

George has been working on the production line for the XYZ Food Processing Company for 14 years. He is a reliable worker and gets on well with his fellow workers and supervisors.

George finds out that he is HIV positive. He continues to do his work to the required standard and does not tell anyone of his illness. But his fellow workers eventually find out and check with him to see if it is true.

George is an honest person and tells his co-workers that he is HIV positive, but that it does not affect his ability to do his job.

His fellow workers in the section are very concerned. They go to their supervisor and demand that George be dismissed. The supervisor discusses this with the production manager and they agree that George should continue as normal. They agree that the matter should be discussed in the Joint Consultation Committee but as a general issue of concern to all workers and managers rather than focusing on a particular individual.

In this case, consultation would provide an opportunity for the workers to present their concerns to management, and for management to explain about HIV transmission, that there is no reason for fear if normal precautions are taken, and that HIV infection is not grounds for dismissal. Such cases are sensitive but cannot be ignored by workers or management.

The willingness of both parties to discuss the issue shows how workplace cooperation can build trust and confidence and reduce potential conflict.

Case Study

The Dizzy Manufacturing Company has recently established a Joint Consultation Committee comprised of three worker representatives and three management representatives. The Committee is chaired by the company's Human Resource Manager, making a total membership of seven.

Many of the workers in the company are young women. When they finish work they have to go through a security check. There have been complaints from workers that some of the security guards are very rude and rough when they do their search. The security workers are not employees of the company but are employees of the company that has been awarded the security contract.

The workers think the security check is unnecessary and unfair, because supervisors are not required to be checked. If the security checks have to continue, the workers would prefer that the checking be done by a different security company. They have heard from their friends in other factories that they experience no problems at all with security checks. If the security company is not changed, the workers insist that two of the security officers should be replaced immediately.

The management representatives on the Consultative Committee are aware of the workers' complaints and are sympathetic. But management has done nothing about the problem because it knows that the security contract will be considered for renewal in 3 months' time. It is possible a new company will be awarded the contract, but this is not certain because the present company is much cheaper than all the others. Management insists that there be security checks at the end of each shift, but would be prepared to consider new arrangements provided these are not too costly.

Here is another example where discussions with workers could assist management to make a better decision concerning security arrangements. Security is the responsibility of management, and it must make the final decision on such matters, but the willingness to discuss the matter with workers can reduce conflict and give management useful advice before it makes its final decision.

Joint decision-making

Joint decision-making involves discussion and interaction between managers and workers that results in a binding decision.

Joint decision-making can take place in formally established committees, or through ad hoc working groups or a task force specially formed to investigate and resolve a particular problem. Irrespective of the form it takes, the essential feature is that managers and workers, together, make decisions that are binding.

Joint-decision making often involves negotiation. Negotiation is a process where two (sometimes more) parties come together and talk with a view to resolving a problem by making compromises and eventually reaching an agreement. This may be over major issues such as pay and allowances, but these are more normally handled by collective bargaining. Joint-decision making tends to concentrate on day-to-day issues involving overtime arrangements, welfare, meals, minor safety issues, training, work processes, and social activities.

Negotiation can only work if the parties are

- willing to use it as a means of resolving differences,
- have the ability and skills to actually negotiate.

Case Study

The owner of the Calypso Produce Factory is very pleased with the performance of the company over the last year. He instructs his general manager that he has allocated the sum of \$10,000 to make improvements in the factory for things other than wages and allowances.

The owner indicates that he wants the workers and management to jointly reach a decision on how the money is to be spent and that he will accept their decision. It is agreed that four representatives of workers and four representatives of managers will meet to reach an agreement.

It is known that the managers favor improving the car, motor-cycle, and bicycle parking arrangements, including placing a roof over most of the parking area.

The workers generally favor improving the canteen, improving the toilet facilities, and making the workplace cooler.

The instructions of the owner make it clear that he wants a **joint-decision** as to how the \$10,000 should be spent. Because managers and workers have different ideas, clearly, there is scope for negotiation and reaching a firm agreement to present to the owner.

Collective bargaining

Collective bargaining refers to groups of workers discussing and negotiating with representatives of management with the aim of reaching a legally binding agreement, known as a collective bargaining agreement.

The groups of workers are usually union representatives but this is not essential.

Collective bargaining

- is a formal process,
- the agreements reached are legally binding on both parties, and apply to all members of the trade union, often even to all workers in the enterprise even if not union members.
- can be as broad in scope as the parties agree.

The framework for collective bargaining is usually established by law, but the actual interaction process is a matter for the parties to decide.

Collective bargaining typically focuses on **future benefits** such as wages and related issues, and working conditions. Wage increases, overtime rates, levels of allowances, working hours, leave, and work safety are some of the more common substantive issues. Increasingly, however, issues concerning training and redundancy have become the subject of bargaining.

Collective bargaining can also cover matters of procedure including arrangements for the handling of grievances, arrangements to be followed when labour disputes occur, and retrenchment procedures.

As well as being a form of workplace cooperation, collective bargaining can also be used as the vehicle for improving workplace relations. For example, collective agreements at the national and industry levels can establish a framework to guide the development of workplace cooperation, with the details being identified within each enterprise that is a party to the collective agreement.

A distinction is normally drawn between the matters that are the subject of collective bargaining, as distinct from other forms of workplace cooperation, particularly consultation and joint-decision making. For example, wages and benefits are normally covered by collective bargaining, rather than by consultative bodies. In addition, the actual process of collective bargaining normally takes place at fixed time intervals, for example, every two years. Workplace cooperation in the form of consultation or joint decision-making, on the other hand, tends to be more frequent and on-going in nature.

It is clear, however, that collective bargaining can co-exist with other forms of workplace cooperation. Collective bargaining, for example, could focus on **future benefits**, with other forms of cooperation focusing on ensuring that **existing rights** are protected.

The following case study, although not encompassing the range of issues typically covered in collective bargaining, is an example of single-issue bargaining.

Case Study

Most of the workers in the Alpha Hotel belong to an enterprise union. The union has been newly formed and is keen to show its members that it can improve their working conditions.

The union has recently found out that other hotels, as well as providing uniforms for staff, pay a monthly allowance to cover the laundry expenses of the uniforms. Workers at Alpha Hotel receive uniforms free of charge, but do not receive any laundry allowance. The union believes that the Alpha Hotel should pay such an allowance, and writes to management indicating it wants to discuss the issue.

Management replies that it is willing to discuss the matter with the union's representatives, but also indicates that the hotel's financial position is weak and that it cannot afford to pay any additional allowances.

This example indicates that that the parties are willing to discuss an issue relating to future benefits. It is now necessary for both the union and management to prepare for the preliminary discussion, which may progress to actual bargaining, depending on their respective capacities.

Other forms of workplace cooperation

In addition to the five forms of workplace cooperation outlined above, two additional forms can be considered, namely,

- autonomous work groups,
- financial participation.

Autonomous work groups

This refers to teams of workers being responsible for a number of operational issues, and given the authority to operate without constant interaction with managers. The work group manages itself. The interaction with management takes place at the time when tasks and responsibilities are delegated by management to the work group and the limits to the group's authority are set, and when the group reports to management on its performance.

Example

The Java Motor Cycle Company imports motorcycle kits, ready for assembly. The manager of Java has 16 workers and allocates one kit per worker and instructs them to assemble the motorcycle as quickly as possible. The manager closely supervises the 16 workers, checking their work, and urging them to work faster and faster.

After several months the assembly work is proceeding very slowly and a friend of the manager suggests that he talk to his workers to see how things might be improved. As a result of these discussions it is agreed to form two teams of 8 workers each, and let the team decide how best to assemble the motorcycles. The manager also agrees not to constantly supervise and check on the teams, but to give them some freedom to do the work as they think best.

Once objectives and targets have been set, the work group has considerable freedom as to **how** the work will be performed. Autonomy does not mean a total lack of management involvement. Managers are still involved but in a different way than under more traditional work arrangements.

Financial participation

This refers to workers sharing in the financial gains of the enterprise either through performance bonuses, profit sharing schemes, or the ownership of shares.

The cooperation and interaction under such schemes relates to the **process** of deciding how financial gains are to be shared. If the sharing arrangements are actively discussed by managers and workers through joint consultation arrangements, financial participation can be a very important subject for workplace cooperation. The actual sharing of financial gains, however, is the **outcome** of cooperation and thus, in itself, does not qualify as a **form** of workplace cooperation.

In some gain sharing schemes there may be little or no dialogue and interaction between managers and workers and thus little cooperation. Management may decide what the sharing arrangements will be and workers simply take what they are given. In such cases, workers share in the outputs of the enterprise but there is no real interaction or cooperation. It is possible, however, that once workers know they will share in financial gains, this may be an incentive for them to want to cooperate more closely with management to ensure that their financial gains are maximized.

In countries where industrial relations are relatively immature, managers have shown some reluctance to include financial participation issues in workplace cooperation agendas. Some gain sharing may take place, but this is decided unilaterally by management and not through interaction and cooperation.

CHAPTER 4

WORKPLACE COOPERATION: BUILDING CAPACITY

The actual forms of workplace cooperation in enterprises depends to a large extent on the actual **capacity** of managers and workers to engage in dialogue, cooperate and interact with each other.

Capacity refers to both the ability and willingness of workers and managers to interact and cooperate. **Ability** refers to the knowledge, skills and accumulated experience of both managers and workers with regard to communication, problem solving, analysis, negotiation, and interpersonal relations, as well as their technical knowledge of the issues concerned (e.g. wage systems, laws and regulations, safety and health, productivity).

For example, if workers and managers have limited knowledge of labour laws and regulations, they lack the capacity for real dialogue and cooperation on matters concerning workers' rights and obligations. In such cases, workers and managers will tend to argue rather than cooperate. Clearly, workers and managers need to build their technical capacity relating to the law.

Willingness refers to the extent to which the parties are motivated to work together, their trust and confidence in each other, and their commitment to their common interests as the basis for solving their problems. If they do not trust each other, it will be difficult to have real cooperation in the workplace. Their capacity to trust each other must be developed if workplace cooperation is to be successful.

The five forms of workplace cooperation as outlined in Chapter 3 can be placed on a continuum, and each level related to the capacity of the parties to interact.

Maturity



Level of Cooperation

Under this approach, **one-way communication** in the form of circulars, notices, and messages attached to pay slips, is on the lowest level of the continuum, and requires relatively low capacity.

Two-way communication requires higher capacity in that the skill and ability required, and the commitment of the parties to the process, is greater than required under **one-way** communication. Two-way communication requires a real willingness to **interact**, and managers and workers need to be trained in the skills and techniques to do it successfully.

Consultation involving information sharing and discussions between workers and managers requires higher-level abilities, mainly because of the issues likely to be discussed in consultative bodies.

Consultation is another form of two-way communication but requires a degree of technical knowledge of the issues on the part of both managers and workers if it is to generate maximum benefits.

Joint decision-making involves different and higher abilities than required in consultative processes. It frequently involves single-issue negotiations, requiring that both parties have knowledge of the negotiation process and the necessary skills to apply that knowledge to the issue at hand. The search for win-win outcomes also requires a degree of commitment and willingness on the part of both parties to make compromises and not necessarily achieve everything they would like.

Collective bargaining is the most formal of all forms of workplace cooperation and in addition to the actual skills of negotiation, requires detailed preparation by both managers and workers on the substance of the issues to be negotiated. Bargaining over future wage increases, for example, requires the ability of both parties to analyze and interpret information concerning inflation, productivity, the capacity of the enterprise to pay increases, and its overall competitive situation.

Building capacity

What needs to be done to build the capacity of both managers and workers if workplace cooperation is to move from lower to higher levels along the continuum, to the stage where all five forms of cooperation can operate concurrently?

Firstly, both managers and workers need information on the nature, purpose and forms of workplace cooperation. This information can be provided through training materials and interactive training sessions. Some training might be conducted for workers and managers separately, and some might be conducted jointly so that managers and workers start to interact with each other in a relatively non-threatening environment.

Secondly, both managers and workers need to see and experience how work place cooperation operates in practice. This can be done by exposing them to enterprises and situations where workplace cooperation is operating successfully, and where both managers and workers are able to demonstrate the benefits that flow from increased cooperation.

Thirdly, managers and workers need opportunities to actually practice various forms of workplace cooperation, and gain experience in interacting with each other on real-life issues that arise on a day-to-day basis within the enterprise. Ideally, this practice phase should be able to draw on the knowledge and skills of an independent person skilled and experienced in workplace cooperation issues and processes, able to advise both parties on what they can do to improve their interactions and dialogue and, generally, encourage and motivate them to build trust and confidence in each other.

Fourthly, managers and workers need repeated practice to further build trust and confidence, learn from experience, and generally develop their interactions to the stage where cooperation becomes an integral part of enterprise culture.

CHAPTER 5

WORKPLACE COOPERATION: GETTING STARTED

Getting Started

For those enterprises with little experience in workplace cooperation, but with an interest in improving enterprise labour relations, the question arises as to how to 'get started'.

What steps have to be taken to commence dialogue and cooperation in enterprises. The specific steps will vary from enterprise to enterprise but a number of common steps can be identified with a number of possible starting points.

Productivity improvement as a starting point

Safety and health as a starting point

Handling grievances as a starting point

'Getting started' on a grievance procedure requires that both managers and workers have a clear understanding of the nature and purpose of such a procedure, and a willingness to make it work for the benefit of both parties.

What is a grievance?

A grievance is a complaint by one or more workers against the management of an enterprise.

- More than one worker may have the same complaint.
- The complaint normally concerns an existing right (e.g. under the law, under the contract of employment, under work rules or internal regulations). For example, a worker may complain that he or she has not received the correct pay, or has not been paid for sick leave, or has not received the attendance allowance.
- The complaint may also relate to something new, about something a worker or group of workers want improved. For example, workers may complain that the lighting in the factory needs to be improved to enable them to do their work better.

What is a procedure?

A procedure is a way of doing things in an orderly manner, in accordance with a system and sequence. 'Order and sequence' require a step-by-step approach to the handling of complaints.

What is a grievance procedure?

A grievance procedure refers to the steps to be followed in resolving complaints by workers arising at work or out of their work situation, with regard to both existing rights and future improvements in their working arrangements.

The following example highlights the nature of a grievance, and the need to have a system in place to handle such complaints.

The workers in the ZeeZee Garment factory are always complaining to each other about the quality of the drinking water in the factory. The water sometimes tastes badly and is sometimes not clear in colour. The cups provided by the factory are too few and are not properly washed.

One day the workers find that there are some frogs swimming in the drinking water container. They tell this to their supervisor but she just laughs and says, 'Don't worry. The frogs will not drink much of your water!'

Here is a complaint by a group of workers that if not handled quickly and seriously could soon escalate into a major problem and, possibly, a work stoppage. Obviously, the line supervisor does not take the complaint seriously, and a grievance **procedure** is required to indicate to the workers what they can do to have their complaint addressed.

The first step, normally, is to bring the problem to the attention of the line supervisor. In the above case, the problem has not been resolved at the first step, and thus it is necessary for the workers to know what to do next. The second step, normally, would be the production manager, and if he or she cannot resolve the complaint it would go to a third level, and possibly higher in some cases. Each step in the procedure normally has a time limit to ensure that problems are addressed quickly and do not worsen as a result of being 'put aside.'

Why have a grievance procedure?

Some of the reasons for having a grievance procedure are as follows.

- It can resolve disagreements between workers and management, without the need for government intervention.
- It promotes harmony in the workplace.

- It requires workers and managers to work together – ‘they’ and ‘us’ are replaced by ‘we’.
- It prevents small problems escalating into larger ones.
- It works quickly – problems can be resolved without delay.

A Model Grievance Procedure

A model grievance procedure is presented below. This model can and should be adapted as necessary to meet the circumstances of individual enterprises to give managers and workers the flexibility they require in resolving workers’ complaints.

The ‘model’ procedure comprises 6 elements, as follows.

- Basic principles
- Objectives
- Coverage
- Rights and obligations
- The actual procedure: 4 steps
- Operational arrangements

The Basic Principles

A grievance procedure normally conforms to the following underlying principles. The procedure is

- written and in a language that can be understood by all parties.
- agreed between the parties, with agreement being reached through negotiation if necessary.
- voluntary in that the introduction of a grievance procedure is an exercise in cooperation – the procedure cannot be imposed by one party on another.
- simple and easy for all parties to understand and follow.
- transparent, meaning that the procedure should be open and accessible to all workers with complaints against management.
- participatory in that the procedure should be agreed by workers and managers and, once a complaint is made, both parties are expected to actively participate to resolve the problem.
- based on good faith, meaning that both parties will make every effort to resolve the complaint without delay, and with respect for each other’s position.
- based on respect for workers’ rights, meaning that workers do not have to give up their established rights by participating in the procedure.
- time-bound, meaning that each step in the procedure has a time limit agreed by the parties.

Objectives

The grievance procedure aims to

- address complaints quickly and systematically.
- prevent minor issues from becoming major ones.
- minimize disruptions to production.
- resolve problems within the enterprise without government intervention.
- build trust and confidence between workers and managers.

Coverage

The grievance procedure is intended to cover

- complaints by workers, not by managers.
- complaints by individual workers and groups of workers.
- complaints relating to existing rights under the law, employment contract, work rules, internal regulations, and custom.
- complaints relating to non-existing rights (other than wages, allowances and benefits).

Rights and obligations

- Management agrees not to retaliate against any worker who makes a complaint.
- Workers are entitled to have a representative to assist them with any complaint.
- Workers are allowed to have time off during working hours to use the procedure.
- Workers will not suffer a loss of remuneration for their involvement in the procedure.
- Workers agree not to make frivolous complaints.
- Both parties agree to respect the time limits set under the procedure.
- Both parties agree to do their utmost to resolve the issue within the enterprise.
- Both parties accept that the procedure does not eliminate their rights under the law.

The procedure: Four steps

- | | |
|----------------|--------------------------------------|
| Step 1: | Worker-immediate supervisor |
| Step 2: | Worker-production manager |
| Step 3: | Worker-human resource manager |
| Step 4: | Third-party assistance |

Step 1: Worker-immediate supervisor

- Workers make known their complaint to their immediate supervisor.
- In most cases this will be a verbal complaint.
- The worker is entitled to have a representative present to provide assistance and advice.
- The worker is entitled to have an interpreter present to ensure the supervisor fully understands the complaint.
- The worker and the supervisor make every effort to resolve the complaint.
- The complaint must be handled and resolved if possible, within one working day.
- The supervisor should keep a record of complaints made and action taken.

Example

Mary works for the Wonka Garment Factory and is currently on maternity leave. She receives half of her basic pay salary each month. She learns from a friend that she should receive more than this because she has often worked overtime, and that she should receive half of her allowances as well.

Mary calculates all the overtime she has done over the last year and works out that she has earned \$40 per month in overtime.

She goes to her supervisor and says that she has not been fairly treated. She argues that she should get half of the overtime payments (\$20), half of the attendance allowance of \$5 per month, and half of the seniority allowance of \$2 per month. In total, Mary claims she should receive \$23.50 in addition to half her basic salary that she is now receiving.

If Mary has an understanding supervisor who has a good knowledge of the labour law, this problem might be resolved by the supervisor explaining Mary's legal rights. In practice, however, it is unlikely that her supervisor will have sufficient knowledge of the law and thus the complaint would need to be handled at the next step.

If the supervisor cannot resolve the problem, it is important that the supervisor try to be helpful rather than confrontational. If the supervisor dismisses the complaint by saying 'you are lucky to be getting any pay at all!' the situation could worsen.

Step 2: Worker-production manager

- If the complaint cannot be resolved by the worker and the immediate supervisor within one day, it is presented to the production manager (who is the supervisor's superior).
- The complaint is usually made verbally.
- The worker is entitled to have a representative present to provide assistance and advice.

- The worker is entitled to have an interpreter present.
- The worker and the production manager must make every effort to resolve the complaint.
- The complaint must be handled and resolved if possible within one working day.
- The production manager should keep a record of complaints made and action taken.

In the case concerning Mary outlined above, the production manager may be able to resolve the complaint if he or she has sufficient knowledge of the labour law, and sufficient patience to explain to the worker her entitlements.

Step 3: Worker-Human Resource Manager

- If the worker and the production manager cannot resolve the complaint within one working day it is submitted to the human resource manager.
- The worker may present the complaint verbally or in writing, but a written complaint is suggested.
- If the complaint is presented in writing, the worker should provide the following
 - his/her name, department or section, and the name of the supervisor.
 - a description of the complaint, names of persons involved, witnesses, and other details.
 - signature and date.
- The worker is entitled to have a representative present to provide assistance and advice, including assistance in completing the written complaint.
- The worker is entitled to have an interpreter present
- The worker and the human resource manager must make every effort to resolve the complaint within two working days.
- Minutes of the discussion can be kept if the parties so agree.
- Any such record of the discussions must be made available to both parties.
- If the parties resolve the complaint the worker will be notified in writing of the outcome.
- If the parties do not resolve the complaint, the worker will be notified of the outcome in writing together with the reasons for non-resolution.

Step 4: Third-party assistance

- If the parties fail to resolve the complaint within 2 days but believe a resolution is still possible, they may agree to appoint a third person to assist them with their discussions.
- The parties must agree on the actual person to be appointed as the third-party.
- The third party has no power to make decisions. His/her presence is to help the parties reach a mutually acceptable outcome.
- The worker is entitled to have a representative present to provide assistance and advice.
- The worker is entitled to have an interpreter present.
- Any meeting involving a third party facilitator should take place within 5 days of the failure of the worker and the human resource manager to resolve the complaint.
- Any meeting involving a third party facilitator should not last for more than one day.

Example

The workers in the ZSAZSA garment factory have their lunch outside the factory gate at small stalls operated by private vendors. The number of workers who complain of sickness some hours after lunch is increasing and work time is being lost.

A group of workers who have suffered illness complain to their line supervisor, but he says he can do nothing.

The company's grievance procedure provides for the workers to take their complaint to the production manager. They do this and although he is sympathetic he says there is nothing he can do.

The workers then take their case to the Human Resource Manager. They discuss the complaint but cannot agree on a solution that is acceptable to both sides. The parties agree to appoint an independent third party facilitator to help try and find a mutually acceptable solution.

The third party facilitator does not attempt to impose a solution but, rather, encourages both parties to discuss a wide range of alternative solutions. The third party becomes a resource person that generates ideas that might lead the parties to a mutually acceptable outcome.

Operational arrangements

- The grievance procedure will be made available in a language understood by workers.
- Interpreters must be identified and informed of their role in the procedure.
- Every worker must know his/her immediate supervisor.
- Management must inform the immediate supervisors of their role in the grievance procedure.
- The production manager must be identified and known by all workers.
- Management must inform the production manager of his/her role in the grievance procedure.
- The human resource manager must be identified and known by all workers.
- Management must inform the human resource manager of his/her role in the procedure.
- Suitable third-party facilitators should be identified.

The grievance procedure may not result in all problems being solved. After the fourth step it is possible that the parties have not reached an agreement. In such cases, they may be able resort to their rights under the national Labour Law. This means that the grievance becomes an official labour dispute, and is subject to the dispute resolution procedures, including conciliation and arbitration, set out in the Labour Law.

Grievance Procedure and Collective Bargaining

The agreed grievance procedure is not intended as a substitute for collective bargaining. As workers and management progressively enter into collective bargaining agreements it is expected that a grievance procedure will become a component of each collective agreement.

CHAPTER 6

LABOUR LAW, SOCIAL DIALOGUE AND WORKPLACE COOPERATION

In a number of Western countries legislation is the main source of authority for workers to participate in enterprise decision-making. Legislation, for example, may require the creation of Works Councils (usually known as Employee Councils in Asia) or the establishment of Occupational Safety and Health Committees for enterprises employing more than a stipulated number of workers. In most cases, however, legislation makes it clear that committees and councils established by law should not engage in matters already covered by trade unions. In effect, this means that Works Councils and other similar bodies are not authorized to bargain or participate in strikes.

The establishment of Works or Employee Councils in Cambodia could play an important role in workplace cooperation, provided they are not seen as a means for marginalizing trade unions and as a substitute for collective bargaining.

Such councils could play an important consultative role regarding such matters as technological change, work organization, training, and personnel policy. These issues can be effectively dealt with at enterprise level and can play an important role in improving enterprise competitiveness.

CHAPTER 7

INTERNATIONAL LABOUR STANDARDS, SOCIAL DIALOGUE AND WORKPLACE COOPERATION

International Labour Organization

The International Labour Organization (ILO) is a standard setting organization, with its standards embodied in Conventions and Recommendations. ILO Conventions are open to ratification by member States and, once ratified, assume the status of international treaties, thereby creating legal obligations on countries that ratify. Member States who ratify a Convention undertake to apply the content of that Convention to their national circumstances, to adapt their national laws and practice accordingly, and to accept international supervision.

ILO Recommendations, on the other hand, are not international treaties and have no legal status. Nevertheless, they provide important guidelines for countries to follow in the development of national policies and their implementation.

ILO instruments are the result of interactions between employers' and workers' organizations and government, with such tripartite interactions and discussions resulting in standards that are relevant, realistic, and with sufficient flexibility to enable them to be applied universally.

Freedom of Association and the Right to Bargain

Reference to Conventions 87 and 98

ILO Standards concerning dialogue and cooperation at enterprise level

Various international instruments relating to workplace cooperation and workers' participation in enterprise decision-making have been adopted by the ILO over the years. Overall, the standards in this field emphasize the importance of effective consultative and cooperative practices between employers, workers and trade unions, **but that such practices should not be a substitute for collective bargaining**. The more important ILO instruments of relevance to improving workplace relations are as follows.

ILO Recommendation No 94 (Cooperation at the Level of the Undertaking, 1952) provides a series of guidelines to promote consultation and cooperation between workers and management at enterprise level on issues of mutual concern, that are not normally dealt with through collective bargaining. It is clear that the Recommendation is not promoting consultation and cooperation at

the expense of collective bargaining, and sees consultation and cooperation as a complement to the collective bargaining process.

The Recommendation reinforces the accepted view that consultation is a process leading to advice, whereas bargaining is a process leading to a binding agreement.

The Recommendation provides that consultation and cooperation should be

- facilitated by the encouragement of voluntary agreements between the parties; or
- promoted by laws or regulations which establish bodies for consultation and cooperation and determine their scope, functions, structure and methods of operation, as may be appropriate to the conditions in individual undertakings; or
- facilitated or promoted by a combination of these methods.

As a Recommendation, the instrument does not oblige member States to enact legislation to establish consultative bodies. It merely suggests that this is **one** way of establishing the institutions and processes for consultation within enterprises.

Recommendation No 113 (Consultation and Cooperation between Public Authorities and Employers' and Workers' Organizations at the Industrial and National Levels, 1960) supplements the provisions of Recommendation 94. Recommendation 113 makes it clear that the same means of action identified in Recommendation 94 can be applied at the industry and national levels in solving issues of mutual concern between employers' and workers' **organizations**, and in relation to certain issues between them and public authorities.

This Recommendation recognizes that industrial relations takes place at various levels, and that consultations at industry and national levels can generate constructive advice as an input to improved decision-making.

Recommendation No 129 (Communications within the Undertaking, 1967) emphasizes the importance of creating a climate of mutual understanding and confidence between workers and management in enterprises. It recognizes the paramount importance of information sharing in promoting cooperation within the enterprise. The dissemination and exchange of information relating to the various activities of an enterprise is of fundamental importance in building trust and confidence between workers and management.

Effective communication requires a communication policy. In so far as the disclosure of information will not cause damage to either party, the Recommendation states that information should be shared, and consultation should take place between workers and management before any decision on matters of major interest is taken by management. The recommendation places the emphasis on consultation leading to advice, and does not mean that management must surrender its decision-making powers to workers. The recommendation implies, however, that decision-making and the implementation of management decisions will be improved if workers have an opportunity to be informed, and at least discuss key issues of concern to them.

Recommendation No 130 (Examination of Grievances within the Undertaking with a view to their Settlement, 1967) provides that:

- any worker who considers that he/she has grounds for a grievance should have the right to have such a grievance examined pursuant to an appropriate procedure;
- the grounds for a grievance may be any measure relating to employer-worker relations or affecting employment conditions when that measure appears contrary to the provisions of a collective agreement, an individual employment contract, to work rules, to laws or regulations, or to custom and usage.

This Recommendation does not apply, however, to collective claims aimed at the modification of terms and conditions of employment. In other words, the Recommendation makes it clear that an enterprise grievance procedure should be confined to complaints concerning **existing** terms and conditions of employment, and that complaints concerning **future** benefits (e.g. an increase in wages for next month or next year) are better handled by collective bargaining.

It would appear, however, that some matters concerning **future** benefits could be suitably handled by an enterprise level grievance procedure as, for example, items concerning health and safety that are not covered by any existing arrangements. The Grievance Procedure presented in Chapter 5, indicates that grievances on all matters except pay and allowances could be handled by an enterprise grievance procedure. This would enable complaints over things that are not a worker's legal right, but nevertheless important, to be handled quickly and in accordance with a proper procedure.

Convention No 135 (Workers' Representatives, 1971) is concerned with the protection of, and the facilities to be afforded to, workers' representatives in an enterprise. In accordance with the Convention, workers' representatives shall enjoy effective protection against any act prejudicial to them, including dismissal, based on their status or activities as representatives or in relation to union membership or participation in union activities.

Workers representatives should also enjoy appropriate facilities in order to carry out their functions in a prompt and efficient way. The existence of elected workers' representatives, according to the Convention, should not be used to undermine the position of local trade unions or their representatives in the undertaking.

Workers' representatives and consultation are also mentioned in the ***ILO Tripartite Declaration on Social Policies and Multinational Enterprises (1977)***.

Under the heading 'Consultation', paragraph 56 states that in multinational enterprises, as well as national-based enterprises, systems devised by mutual agreement between employers and workers and their representatives should provide for regular consultation on matters of mutual concern. The Declaration says, however, that **such consultations should not be a substitute for collective bargaining**.

The ILO standards do not intend to prescribe the best way or only way for establishing sound arrangements for workplace cooperation in a particular country or individual enterprise. Any national framework to facilitate workplace cooperation must relate to the circumstances of each country, and should provide for arrangements that are most likely to secure on-going commitment from workers, managers and their representatives. In some cases a very detailed framework with a high degree of regulation may be appropriate; in other situations a much broader framework will suffice.